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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 6693)

Jackson for Virginia)

and Theodora J. Jackson as treasurer)

Elizabeth C. Jenks, aka "Chardon Jenks")

Elizabeth Harrigan)

Terrell Harrigan)

DISMISSAL AND
CASE CLOSURE UNDER THE CELA
ENFORCEMENT PRIORITY
SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"),¹ and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances. The Office of General Counsel has determined that MUR 6693 should not be referred to the Alternative Dispute Resolution Office.

The Office of General Counsel has scored MUR 6693 as a low-rated matter.² For the reasons set forth below, the Office of General Counsel recommends that the Commission find no reason to believe that Respondents Jackson for Virginia and Theodora J. Jackson in her official

¹ On September 1, 2014, the Act was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

² The EPS rating information is as follows: Complaint Filed: November 13, 2012. Joint Response from the Committee and Elizabeth C. Jenks, aka "Chardon Jenks," Filed: December 7, 2012. Response from Elizabeth Harrigan Filed: December 10, 2012. Response from Terrell Harrigan Filed: December 10, 2012.

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1 capacity as treasurer (collectively, the "Committee")³ accepted excessive contributions in violation
2 of 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)), or that Respondents Elizabeth C. Jenks, aka
3 "Chardon Jenks," and Terrell Harrigan made excessive contributions, in violation of 52 U.S.C.
4 § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)). With respect to Respondent Elizabeth
5 Harrigan, who is deceased, this Office recommends dismissing the matter.⁴ This Office also
6 recommends that the Commission dismiss the allegation that the Committee violated 52 U.S.C.
7 § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)) in connection with its reporting of the
8 contributions at issue, and remind the Committee to comply with the requirements of 52 U.S.C.
9 § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)).

10 The Complainant, Frank Smith, notes that the Committee disclosed the following
11 contributions: \$1,000 from "Mrs. Elizabeth C. Jenks" on March 12, 2012,⁵ \$1,000 from
12 "Mrs. Chardon Jenks" on April 18, 2012;⁶ \$500 from "Mrs. Chardon Jenks" on April 24, 2012;⁷ and
13 \$2,500 from "Mrs. Elizabeth C. Jenks" on June 11, 2012.⁸ Compl. at 1. The addresses for the

³ Jackson for Virginia is the principal campaign committee of Earl W. Jackson, Sr., unsuccessful 2012 primary election candidate for U.S. Senate for Virginia. All of the contributions in this matter are attributed to the primary election.

⁴ Mrs. Harrigan died on April 19, 2014, after the Complaint and Responses in this matter were filed. See http://www.dailyprogress.com/obituaries/harrigan-elizabeth/article_689956c6-7aca-5beb-ab62-7db3451f15f1.html (last visited July 22, 2014).

⁵ See Committee's 2012 April Quarterly Report, filed on April 14, 2012 ("Committee's April Quarterly Report") at 6.

⁶ See Committee's 2012 12-Day Pre-Primary Report, filed on May 31, 2012 ("Committee's Pre-Primary Report") at 8.

⁷ See Committee's Pre-Primary Report at 8.

⁸ See Committee's 2012 July Quarterly Report, filed on July 14, 2012 ("Committee's July Quarterly Report") at 6.

1 contributions are nearly identical post office boxes in Keswick, Virginia. *Id.*⁹ The Complaint
2 alleges that "Elizabeth C. Jenks" and "Chardon Jenks" are in fact the same individual, and that she
3 contributed \$5,000 to the Committee for the primary election.¹⁰ *Id.* Therefore, according to the
4 Complaint, Elizabeth C. Jenks, aka "Chardon Jenks," and the Committee violated the Act by
5 making and accepting excessive contributions, respectively. *Id.*

6 The Complaint also alleges that "Elizabeth Harrigan," whom the Complaint identifies as
7 Jenks's sister-in-law, contributed \$1,000 to the Committee on June 11, 2012 and that "Terrell
8 Harrigan,"¹¹ identified as Jenks's niece, contributed \$2,500 on June 11, 2012.¹² Compl. at 1. The
9 Complaint claims that these contributions "may all be from one and the same person" or,
10 alternatively, may have been "laundered through relatives." *Id.* According to the Complaint, an
11 obituary for Mrs. Jenks's late husband, Dr. John S. Jenks, a copy of which is appended to the
12 Complaint,¹³ supports these assertions. *Id.*; see also Compl., Attach. The Complaint surmises that
13 the Committee may have been aware of "the attempt to conceal the apparently excessive
14 contributions." *Id.*¹⁴

15 In its Response, the Committee explains that "Mrs. Elizabeth Chardon H. Jenks" and
16 "Elizabeth Jenks" are mother and daughter, respectively, and that their similar names may have
17 created the appearance of an excessive contribution from one individual. Committee Resp. at 1-2.

⁹ See Committee's April Quarterly Report at 6; Committee's Pre-Primary Report at 8; and Committee's July Quarterly Report at 6.

¹⁰ The contribution limit in 2011-2012 was \$2,500 per election to a candidate's committee. See FEC Brochure for March 2011 at 6; available at http://www.fec.gov/pdf/record_2011_march11.pdf#page=7

¹¹ The Complaint uses the surname "Harrington," instead of "Harrigan."

¹² See Committee's July Quarterly Report at 5-6.

¹³ No source for the obituary is provided.

¹⁴ The Complaint offers no credible support for these allegations. Therefore, we do not address them further.

1 The Committee asserts that it did not accept excessive contributions from the donors listed in the
2 Complaint, but acknowledges that it may have "aggregated some of the contributions incorrectly
3 between" Mrs. Elizabeth Chardon H. Jenks and Elizabeth Jenks. *Id.* The Committee states that it
4 will review its financial disclosure reports and amend them, if necessary. *Id.*¹⁵

5 Attached to the Committee's Response is a sworn and notarized letter from Elizabeth
6 Chardon H. Jenks (signed "Chardon Jenks") stating she made a total of \$2,500 in contributions to
7 the Jackson campaign in 2012 as follows: \$1,000 on May 10, 2012;¹⁶ \$1,000 on April 18, 2012;
8 and \$500 on April 24, 2012. Jenks Resp. Mrs. Jenks further states that her daughter, Elizabeth
9 Jenks, made an online contribution of \$2,500 to the Jackson campaign on May 27, 2012,¹⁷ with her
10 separate credit card, and that she and her daughter each pay their own credit card bills. *Id.*

11 Both Elizabeth Harrigan and Terrell Harrigan also submitted sworn and notarized
12 Responses. In her Response, Elizabeth Harrigan states that she donated \$1,000 to the Jackson
13 campaign in June 2012 for the primary election, "far below" the \$2,500 contribution limit, and that
14 her daughter, "Elizabeth Chardon Jenks," and her daughter-in-law, Terrell Harrigan, donated to the
15 Committee as well. Elizabeth Harrigan Resp. at 1. Terrell Harrigan responded by stating that in
16 June 2012, she donated "the maximum limit" of \$2,500 to the Committee for the 2012 primary.
17 Terrell Harrigan Resp. at 1.

18 A "contribution" is defined as any "gift, subscription, loan . . . or anything of value made by
19 any person for the purpose of influencing any election for Federal office." 52 U.S.C.

¹⁵ It appears that the Committee may be referring to its July Quarterly Report, which discloses that
"Mrs. Elizabeth C. Jenks" contributed \$3,500 for the primary election, or \$1,000 above the contribution limit. To date,
the Committee has not amended the Report.

¹⁶ It appears that Mrs. Jenks may be referring to the contribution disclosed by the Committee as having been
received on March 12, 2012.

¹⁷ The Committee disclosed the receipt date of this contribution as "June 11, 2012."

1 § 30101(8)(A)(i) (formerly 2 U.S.C. § 431(8)(A)(i)); *see also* 11 C.F.R. § 100.52(a). An individual
2 is prohibited from making contributions to a candidate in excess of the limits at 52 U.S.C.
3 § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)), and candidate committees are prohibited
4 from knowingly accepting excessive contributions. 52 U.S.C. § 30116(f) (formerly 2 U.S.C.
5 § 441a(f)). The Act also requires candidate committees to identify individuals contributing over
6 \$200 per election cycle, the amounts of their contributions and dates received, and the aggregate
7 "election cycle to date" amount of their contributions to the committee. 52 U.S.C. § 30104(b)(3)(A)
8 (formerly 2 U.S.C. § 434(b)(3)(A)); *see also* 11 C.F.R. § 104.3(a)(4).

9 It appears that Respondents Elizabeth C. Jenks, aka "Chardon Jenks," and Terrell Harrigan
10 did not make excessive contributions and that the Committee did not accept excessive contributions.
11 Therefore, the Office of General Counsel recommends that the Commission find no reason to
12 believe that Elizabeth C. Jenks, aka "Chardon Jenks," and Terrell Harrigan violated 52 U.S.C.
13 § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)), and dismiss the matter as to Elizabeth
14 Harrigan, in light of her passing. Additionally, this Office recommends that the Commission find
15 no reason to believe that Jackson for Virginia and Theodora J. Jackson in her official capacity as
16 treasurer violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)), with respect to the allegations
17 in this matter. The Office of General Counsel also recommends that the Commission dismiss the
18 allegation that the Committee violated 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C.
19 § 434(b)(3)(A)), pursuant to the Commission's prosecutorial discretion. *See Heckler v. Chaney*,
20 470 U.S. 821 (1985). In light of the fact that the Committee failed to amend its Report to date, this
21 Office also recommends that the Commission remind the Committee to comply with the
22 requirements of 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)). Finally, the Office

of General Counsel recommends that the Commission approve the attached Factual and Legal Analyses and the appropriate letters, and close the file in this matter.

RECOMMENDATIONS

1. Find no reason to believe that Elizabeth C. Jenks, aka "Chardon Jenks," violated 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)) with respect to the allegations in this matter;
2. Find no reason to believe that Terrell Harrigan violated 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)) with respect to the allegations in this matter;
3. Dismiss the matter as to Elizabeth Harrigan;
4. Find no reason to believe that Jackson for Virginia and Theodora J. Jackson in her official capacity as treasurer violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)) with respect to the allegations in this matter;
5. Dismiss the allegation that Jackson for Virginia and Theodora J. Jackson in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)), pursuant to the Commission's prosecutorial discretion;
6. Remind Jackson for Virginia and Theodora J. Jackson in her official capacity as treasurer to comply with 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A));
7. Approve the attached Factual and Legal Analyses and the appropriate letters; and
8. Close the file.

General Counsel

Date

9/22/14

BY:



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